

MINUTES OF THE MEETING
OF THE
BOARD OF OPTOMETRY

September 8, 2005

ROLL CALL

The meeting of the Board of Optometry was called to order at 1:35 p.m. by Dr. Wayne Quincy, Chairman, in the Board Room, Staybridge Inn & Suites, 2701 Fletcher, Lincoln, Nebraska. The agenda was sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Wayne Quincy, O.D., Chairman
James Kirchner, O.D.
David Kincaid, O.D., Vice-Chairman

Absent: Shelley Fastenau

Present from the Credentialing Division was Becky Wisell, Section Administrator. Also present were Michael Grutsch, Program Manager and Sharon Fitts, Investigator from the Investigations Division and Brad Shaff, Assistant Attorney General.

Ed Schneider, O.D. from the Nebraska Optometric Association (NOA) was also present.

ADOPTION OF AGENDA

Kincaid moved, seconded by Kirchner, to adopt the agenda with Chairman having the ability to rearrange. Voting aye: Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: Fastenau. Motion carried.

APPROVAL OF MINUTES

June 29, 2005

Page 1: Under Investigative Reports and Compliance Monitoring Reports – Closed Session, correct the spelling of Paul Salansky's name.

Page 2: Note that under Proposals for 2006, need to add that David McBride joined the meeting.

Ed Schneider, O.D. left the meeting at 1:38 p.m.

INVESTIGATIVE REPORTS AND COMPLIANCE MONITORING REPORTS – CLOSED SESSION

Kirchner moved, seconded by Kincaid, to go into closed session at 1:38 p.m. for the purpose of hearing the investigative reports and compliance monitoring reports. Voting aye: Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: Fastenau. Motion carried.

Fastenau joined the meeting at 1:41 p.m.

The Board returned to open session at 2:14 p.m.

Ed Scheider, O.D. rejoined the meeting at 2:15 p.m.

DISCIPLINARY INFORMATION – ACTIONS TAKEN/PENDING

No actions taken/pending at this time.

APPLICATION REVIEW

Reinstatement

Kincaid moved, seconded by Kirchner, to request additional information regarding the continuing education courses listed on the reinstatement application of Kristi Stephenson, O.D. Apking questioned whether the Board minded if the information requested could be forwarded to them with a mail ballot concerning Ms. Stephenson's reinstatement application. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried.

Initial Licensure

Kincaid moved, seconded by Fastenau, to request that Julie Germer receive a Licensee Assistance Program (LAP) evaluation, a mental health evaluation and a pre-licensure investigation before the Board will act on her application to practice as an optometrist. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried.

UNIFORM LICENSING LAW REWRITE

Wisell explained that the NCR committee met on August 31, 2005, to discuss input received from the public meeting. Wisell commented that she has been meeting with an internal workgroup on the directions for changes from the NCR committee. There will be a public meeting held in North Platte and Omaha to receive comments on the revised draft before the end of September. Some of the changes to the draft included a clearer definition of endorsement and leaving the hearing before the Board for reinstatement after discipline. Wisell also stated that the Department determined several issues where the word "approval" is going to be used in the ULL. The Department believes that the Boards should approve the following: 1) Continued competency requirements, 2) Requirements for issuing the license, 3) Requirements for renewing a license, 4) Educational programs, 5) Reinstatements, and 6) Grounds for unprofessional conduct. Other places where the word "advice" was used, the Department is looking at using the term "guidance", "consent", or "recommendation". Wisell explained that the ULL will increase the Board members to include another public member and if the Board wishes to increase their professional membership then they should place this change in their practice act.

Wisell commented that Helen Meeks, Division Administrator, Credentialing Division and Dave Montgomery, Administrator, Division of Administrative Services believed that this change needs to go through the 407 review process. Kirchner commented that this is not a change to optometrists scope of practice but only an increase in the level of certification requirement so that all optometrists in Nebraska are providing the same level of service to Nebraska residents. Dr. Schneider requested that the Board postpone introducing this legislation for a year. Kirchner moved, seconded by Kincaid, to postpone introduction of language to change the therapeutic certification and discuss again in the spring of 2006. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried. The Board is in favor of increasing the level of therapeutic certification so that all optometrists are providing the same level service.

OPTOMETRY PRACTICE ACT CHANGES

The Board discussed places in the practice act where the word "recommendation" should remain and other places where the word "approval" should be used. The Board also requested the spelling errors be corrected and to search the document for the word "board" and change it to the word "Board". The Board also discussed requirements for endorsement. The Board commented that the language from §71-139(5) should be added to the practice act. Wisell explained that the language about waiving continuing education for initial licensure within the previous 26-months, was inadvertently removed during the 2003 legislative session. The Board suggested putting this language in the practice act. Wisell explained the premise behind sending only one renewal notice. The Board stated that they still want to see the optometrists that let their licenses expire and those who do not renew. The Board also stated that they would prefer to send an expiration letter.

Brad Shaff left the meeting at 3:06 p.m.

Wisell explained that all Boards will have at least five members and at least 2 will be public members. Grutsch suggested that the Board develop bylaws. Staff will check with other Boards for examples of bylaws. Kirchner moved, seconded by Kincaid, to add a professional member to the Board because the Department is recommending the addition of one more public member. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried.

Wisell explained the Department's reason for combining unprofessional conduct language with the grounds for discipline language, indefinite revocation language. The Department is also updating the language concerning voluntary surrender and will be eliminating language about letters of concern. The Department is suggesting that Boards use newsletters to communicate their concerns to Nebraska optometrists. Wisell explained that the Department has changed the language for Board hearings. Wisell also mentioned that the Department is updating the mandatory reporting regulations.

FINANCIAL REPORT

Wisell explained the financial report.

RFP FOR OPTOMETRIC EDUCATION OR PROFESSIONAL DEVELOPMENT

The Board discussed topics for continuing education. Apking explained that the highlighted areas of the RFP needed specific language relating the Board's request for companies bidding for the grant. Kincaid volunteered to develop the language.

GENERAL INFORMATION

The Board scheduled their next meeting for October 20 or October 21, 2005. The meeting will be held at the Holiday Inn in Kearney during the NOA Annual meeting. Staff will let the Board members know specific time and date of the meeting.

ADJOURNMENT

Kincaid moved, seconded by Kirchner, to adjourn the meeting at 4:30 p.m. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried.

Respectfully submitted,

(Signature on file with the Department)

James K. Kirchner, O.D.
Secretary
Board of Optometry